



Statement for the Record

Submitted by

Robert Aiken, President and CEO,

Feeding America

To the Charitable/Exempt Organizations

Tax Reform Working Group

Monday, April 15, 2013

Thank you for the opportunity to submit this statement for the record on behalf of Feeding America. We look forward to the Committee's examination of tax reform and the role charitable giving incentives such as the charitable tax deduction and the food donation tax deduction play in encouraging monetary and in-kind donations to the nation's nonprofit organizations.

Feeding America is the nation's leading domestic hunger-relief charity and our national network of more than 200 food banks reaches every state, serving over 60,000 local food assistance agencies more than half of which are faith-based. Feeding America food banks as well as food assistance agencies rely on a variety of public and private funding streams to feed 37 million Americans a year, including 14 million children and nearly 3 million seniors.

During the worst economic downturn since the Great Depression, the number of American families struggling to make ends meet increased significantly. In fact, Feeding America's *Hunger in America* report released in 2010 shows a 46% increase in demand between 2006 and 2010. Though our economy has begun to recover, Feeding America food banks are still seeing record demand with national unemployment stuck under 8 percent and millions more working, but for fewer hours and/or lower wages. Too many families across our nation are still struggling to put food on the table.

The food distributed by Feeding America and the programs our food banks run in local communities not only provides immediate relief for struggling families, children and seniors, it also provides a solid return on taxpayer investments and provides support to farmers and the agriculture industry through the purchase of agriculture commodities by USDA.

Feeding America network members utilize local and national public private partnerships to maximize the impact of government commodities and provide the most complete and nutritious food packages available. In FY2012 we moved 3.3 billion pounds of food through our nationwide network, which provided 2.8 billion meals to those in need, yet we still fell short of meeting demand. As demand has increased and other food streams have declined, food banks have to increase the amount of food they are purchasing. Purchased food now comprises 16 percent of the food we distribute to clients. Tax policy that provides incentives for donation of funds and food is critical to the ability of our food banks and other emergency food providers to meet the need in their communities.

Since the Revenue Act of 1917 first created the charitable income tax deduction, our nation's tax system has strongly encouraged Americans to give back to their communities by providing tax deductions for contributions to charitable organizations. Charitable donations remain a significant source of funding for Feeding America and other nonprofits nationwide, a donation stream that is challenged by declines in giving over the last few years. The charitable tax deduction is unique among federal tax deductions in that it encourages tax decisions to strengthen communities, not to provide benefit to individual taxpayers. It also plays an important role in donor behavior; while the majority of donors report donating funds to make a difference, tax incentives play a role in how often and how much these donors continue to

donate. The power of the incentive is illustrated by the timing of many charitable gifts, with more than 20 percent of all annual online charitable donations made on December 30th and 31st. The charitable giving incentive is also strongly supported by the American public, with 7 in 10 Americans responding in a 2011 Gallup poll that they oppose eliminating the charitable tax deduction.

Any changes to charitable giving incentives that would further reduce charitable giving would have a detrimental impact on the ability of Feeding America and our network members to feed millions of struggling Americans. Federal tax incentives to encourage charitable donations help Feeding America raise the funds to address the shortfall in food to meet increased need among struggling Americans. In FY2012, individual donors gave \$450 million to food banks across the Feeding America network. This represents 53 percent of all funds given to our food banks. Feeding America urges the House Ways and Means Committee to reject any changes to charitable giving incentives that would result in less food and funds donated to the Feeding America network.

Along with the charitable giving tax deduction, the food donation tax deduction (Internal Revenue Code Section 170 e3) is a critical tool for Feeding America network members to source donated food from restaurants, retailers, farmers and manufacturers. The deduction provides an incentive for businesses to donate fit and wholesome food inventory to a 501c3 organization serving the poor and needy. The deduction seeks to capture food that would otherwise be wasted by providing an incremental tax deduction over the cost of goods sold if the food is donated to a 501c3. Without Section 170e3, there is little incentive for a business to donate the food verses dumping the food inventory in question and in many cases it would be less expensive for the business to dump than donate the food.

Since the inception of the food donation tax deduction in 1976, the provision was available to C corporation taxpayers only. However, as manufacturing efficiencies and improved sales forecasting by food manufacturers decrease the surplus goods donated to Feeding America members, it is vital to secure additional food product that is available across the food industry spectrum, including from small businesses like restaurants, farmers, and retailers. In 2006, as part of the Pension Protection Act, Congress enacted a two year provision expanding the food donation tax deduction to include all business taxpayers as eligible donors, not just C corporations. This temporary provision has been consistently extended, most recently as part of the American Taxpayer Relief Act of 2012. It provides non C corporations like pass-through entities (Subchapter S corporations, limited liability companies) the ability to take the same enhanced deduction for the contribution of food inventory as C corporations.

Feeding America strongly believes enactment of the **entire** Good Samaritan Hunger Relief Tax Incentive Act (S. 166 and H.R. 3729 in the 112th Congress) would help encourage donations of excess food inventory across the food industry spectrum. The legislation would make permanent the temporary provision allowing all qualified business taxpayers (including farmers, retailers, restaurants and food manufacturers) to take a heightened charitable tax deduction for donations of fit and wholesome food to non-profit charitable organizations that serve the

needy. Feeding America has seen a significant increase in the amount of food donations from non C corporations such as restaurants, retailers, and farmers since the temporary provision was enacted in 2006. According to data collected by Food Donation Connection, donations from non C corporation restaurants have increased 137% since the 2006 expansion of the enhanced tax deduction to include all business donors. However, the temporary nature of this provision makes it very difficult for small businesses to incorporate food donations into a long term business plan and reduces the amount of businesses willing to donate food.

The legislation would also allow farmers and other “cash method” accounting taxpayers to consider 25% of the fair market value of the donated food as the cost to produce the food. Current law does not accommodate the accounting choices that most farmers organized as sole proprietors use and prevents farmers that are sole proprietors from taking the tax deduction. Lastly, the legislation would codify an important Tax Court ruling, *Lucky Stores, Inc. v. Commissioner of Internal Revenue*, in which the Court upheld the right of the taxpayer to determine a reasonable fair market value of donated food rather than the IRS. We strongly believe these changes to the food donation tax deduction would result in increased donations of nutritious food at a time when they are desperately needed.

We greatly appreciate the opportunity to submit testimony to the Charitable/Exempt Organizations Working Group on behalf of Feeding America, our 202 member food banks and the 37 million Americans we feed each year. Maintaining the ability of food banks and other nonprofits to continue to serve their clients and provide help to millions of Americans has never been more important. Protecting the charitable giving tax deduction and expanding food donation tax incentives provides the right approach to address the staggering need we are seeing nationwide. The Good Samaritan Hunger Relief Tax Incentive Act would provide strong incentives to capture millions of pounds of nutritious food currently going to waste while giving small business owners fair and equitable access to the food donation giving incentives C corporations have had for decades. We hope to work with you throughout the tax reform debate to make sure these issues are addressed.

Contact Information:

Carrie Calvert
Feeding America
1150 18th Street NW
Washington DC

